

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 167
HOUSE BILL 446

AN ACT MODIFYING CONTRACT LETTING PROCEDURES AND
LIMITATIONS APPLICABLE TO THE DEPARTMENT OF
TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-28.1 reads as rewritten:

"§ 136-28.1. Letting of contracts to bidders after advertisement; exceptions.

(a) All contracts over ~~three hundred thousand dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) that the Department of Transportation may let for construction or repair necessary to carry out the provisions of this Chapter shall be let to a responsible bidder after public advertising under rules and regulations to be made and published by the Department of Transportation. The right to reject any and all bids shall be reserved to the Board of Transportation. Contracts for construction or repair for federal-aid projects entered into pursuant to this section shall not contain the standardized contract clauses prescribed by 23 U.S.C. § 112(e) and 23 C.F.R. § 635.131(a) for differing site conditions, suspensions of work ordered by the engineer or significant changes in the character of the work. The Department of Transportation shall use only the contract provisions provided in the North Carolina Department of Transportation, Standard Specifications for Roads and Structures, January 1, 1984, except as each may be changed or provided for by rule adopted by the Board of Transportation in accordance with the Administrative Procedure Act.

(b) In those cases in which the amount of work to be let to contract for highway ~~construction~~ construction, maintenance, or repair is ~~three hundred thousand dollars (\$300,000)~~ five hundred thousand dollars (\$500,000) or less, at least three informal bids shall be solicited. The term 'informal bids' is defined as bids in writing, received pursuant to a written request, without public advertising. All such contracts shall be awarded to the lowest responsible bidder. The Secretary of Transportation shall keep a record of all bids submitted, which record shall be subject to public inspection at any time after the bids are opened.

(c) The ~~construction~~ construction, maintenance, and repair of ferryboats and all other marine floating equipment and the construction and repair of all types of docks by the Department of Transportation shall be deemed highway ~~construction~~ construction, maintenance, or repair for the purpose of G.S. 136-28.1 and Chapter 44A and Article 1 of Chapter 143, 'The Executive Budget Act.' In cases of a written determination by the Secretary of Transportation that the requirement for compatibility does not make public

advertising feasible for the repair of ferryboats, the public advertising as well as the soliciting of informal bids may be waived.

(d) The ~~construction~~ construction, maintenance, and repair of the highway rest area buildings and facilities, weight stations and the Department of Transportation's participation in the construction of welcome center buildings shall be deemed highway ~~construction~~ construction, maintenance, or repair for the purpose of G.S. 136-28.1 and 136-28.3 and Article 1 of Chapter 143 of the General Statutes, 'The Executive Budget Act.'

(e) The Department of Transportation may enter into contracts for ~~construction~~ construction, maintenance, or repair without complying with the bidding requirements of this section upon a determination of the Secretary of Transportation or the State Highway Administrator that an emergency exists and that it is not feasible or not in the public interest for the Department of Transportation to comply with the bidding requirements.

(f) The Department of Transportation is required to solicit proposals under rules and regulations published by the Department of Transportation for all contracts for professional engineering services and other kinds of professional or specialized services necessary in connection with highway ~~construction~~ construction, maintenance, or repair that are over ten thousand dollars (\$10,000). The right to reject any and all proposals is reserved to the Board of Transportation, but the Board of Transportation may consult with the Advisory Budget Commission before awarding any such contract.

(g) The Department of Transportation may enter into contracts for research and development with educational institutions and nonprofit organizations without soliciting bids or proposals.

(h) The Department of Transportation may enter into contracts for applied research and experimental work without soliciting bids or proposals; provided, however, that if the research or work is for the purpose of testing equipment, materials, or supplies, the provisions of Article 3 of Chapter 143 of the General Statutes shall apply. The Department of Transportation is encouraged to solicit proposals when contracts are entered into with private firms when it is in the public interest to do so.

(i) The Department of Transportation may negotiate and enter into contracts with public utility companies for the lease, purchase, installation, and maintenance of generators for electricity for its ferry repair facilities."

Sec. 2. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 5th day of June, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives